

Date

November 22, 1993



To

MasterCard International Board of Directors,
U.S. Region Board of Directors

From

Memorandum

Richard Woods *RW*

Subject

Dean Witter, Discover & Co.

PR & Press Materials

Copies To

Alex W. "Pete" Hart
Peter S. P. Dimsey
Robert E. Norton
Noah J. Hanft

As promised, attached for your reference is the news release, fact sheet and question and answer briefing paper for your use should you be queried by colleagues from within your institution or by members. *In any case, refer news media inquiries to me at 212/649-5450 and all other inquiries that you would rather not answer to Bob Norton at 212/649-5301.*

The settlement is a substantial win for both MasterCard and its members for the reasons cited by Pete Hart in the attached news release and could only have been negotiated from a position of strength. This will not prevent criticism from some quarters, however, so please use the attached material to help explain the benefits of this settlement and the wisdom of the course we have chosen.

RW/nm
11:30 am

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DEAN WITTER AND NATIONS BANK TO LAUNCH PRIME OPTION MASTERCARD

NEW YORK, N.Y., November 22, 1993 — Dean Witter, Discover & Co. and NationsBank will launch the Prime Option MasterCard, a co-branded product, which offers consumers a range of financing options which they can tailor to their individual needs.

The co-branding program between NationsBank Card Services and Dean Witter allows for the national launching of the Prime Option MasterCard early in 1994. NationsBank is the issuer of the card.

As part of the agreement to launch this program, Dean Witter and MasterCard International have agreed to settle the current antitrust litigation pending in the Southern District of New York concerning the application by two Dean Witter affiliates to join MasterCard.

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The Prime Option MasterCard will provide consumers with value features that include no annual fee and three competitive financing options. Customers will receive a no-interest 25-day grace period on purchases and cash advances; a low-interest 9.9% rate on current and previous month's purchases; and traditional interest of prime-plus 9.9% on older purchases. Additional features include skip-a-payment, billing-date choice, and 24-hour customer service.

Under the terms of the settlement, MasterCard and Dean Witter have agreed to dismiss their pending litigation, exchange releases covering the claims that they have made in the litigation, and require no cash payments to be made by either side, as part of the settlement.

Visa's appeal of the decision in favor of Dean Witter in the antitrust case is not affected by this agreement. But under the terms of the agreement, two of Dean Witter's subsidiary banks -- MountainWest Financial and Hurley State Bank -- will receive MasterCard membership if Visa loses the appeal.

Alex W. "Pete" Hart, president and chief executive officer, MasterCard International, said: "This is a win for MasterCard no matter how you look at it -- we and our members are released from any potential damages regardless of the outcome of the Visa appeal, and if Visa wins, our decision regarding MountainWest's application for membership remains in place."

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Mr. Hart added, "This is an excellent outcome for our members: We've stood firm on our membership principles and co-branding rules; we and our members are released from any potential damages; and NationsBank, a long-standing member, owns and controls the program in a manner that is entirely consistent with our rules."

Philip J. Purcell, chairman and chief executive of Dean Witter, said the Prime Option MasterCard "offers unique benefits to consumers and will have a significant impact."

"It's a card people will want to use," Purcell said at a news conference at the Waldorf Astoria. "As the name suggests, Prime Option gives people options to better manage their credit."

Pat Phillips, president of NationsBank Financial Products, said: "NationsBank is proud to be associated with two fine companies -- Dean Witter and MasterCard. We are taking our skills in issuing and managing cards and combining them with the outstanding product and servicing capabilities provided by Dean Witter."

"With Prime Option MasterCard, we have the opportunity to meet consumers' needs and in the process, serve our shareholders."

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Prime Option MasterCard Fact Sheet

Issuer: NationsBank *De/An*

Co-Branding Partner: Dean Witter *Actually MountainWest*

Exclusivity: Yes, at launch. Not an on-going commitment.

Program Name: Prime Option (Prime Option is a trademark of MountainWest and is licensed to NationsBank)

Consumer Terms: No annual fee, skip a payment, billing-date choice, 24-hour customer service plus three financing features:

1. no-interest 25-day grace period on purchases and cash advances
2. 9.9% rate on current and previous month's purchases
3. traditional interest of prime plus 9.9% on older purchases

Marketing Restrictions: No association can be made between this product and Dean Witter, Discover or Novus in any advertising, marketing or account solicitation material nor may these names appear on the card.

Settlement Terms:

- Litigation ends
- MasterCard, MasterCard member defendants and Dean Witter release each other from claims made in the litigation; and Dean Witter releases all MasterCard members
- No cash payments or damages are required as part of the settlement
- NationsBank/Dean Witter co-branded program approved
- MountainWest Financial's does not gain membership
- Visa loses its present appeal, in which case MountainWest Financial and Hurley State Bank are admitted to membership

Advantages:

- MasterCard and its members are released from any potential damages regardless of the outcome of the Visa appeal
- If Visa wins before 10th circuit, our decision to deny MountainWest's application for membership stands
- MasterCard has stood firm on its membership principles and co-branding rules
- NationsBank, a long-standing member, owns and controls the program in a manner that is entirely consistent with our rules

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Prime Option MasterCard/Settlement

Briefing Paper

General Description

NationsBank and Dean Witter will launch a co-branded MasterCard card called the "Prime Option MasterCard". Scheduled to be available to consumers in early 1994, the Prime Option MasterCard will offer consumers a range of financing options which they can tailor to their individual needs. Neither the advertising, marketing, account acquiring materials will associate the product with Dean Witter, Discover, or Novus nor do these names appear on the card.

As part of the agreement to launch this program, Dean Witter and MasterCard International have agreed to settle the current antitrust litigation concerning Dean Witter/MountainWest's application to join MasterCard.

This settlement is highly favorable to MasterCard and its members. The benefits of this settlement include:

- MasterCard and its members are released from any potential damages regardless of the outcome of the Visa appeal and are spared the expense of litigation
- If Visa wins its appeal, our decision to deny MountainWest's application for membership stands
- We've stood firm on our membership principles and co-branding rules
- NationsBank, a long-standing member, owns and controls the program in a manner that is entirely consistent with our rules

Key Terms of Settlement Agreement

- The litigation ends
- MasterCard and Dean Witter will release each other, and Dean Witter will release all MasterCard members, from for all of the claims made during the litigation
- No cash payments will be required by either side as part of the settlement
- The NationsBank co-branded program with Dean Witter is approved
- MasterCard conditional membership for MountainWest Financial and Hurley State Bank, both Dean Witter - owned financial institutions, will become effective only in the event that the Tenth Circuit Court of Appeals affirms the favorable decision that Dean Witter's MountainWest Financial subsidiary obtained against Visa. No right of membership is or will be conferred upon Greenwood Trust.

Dean Witter
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Questions and Answers

Q1 Why did you decide to settle?

The logic is straightforward: We and our members are released from any potential damages regardless of the outcome of the Visa appeal, and if Visa wins, our decision to deny MountainWest's application for membership stands. The result is that we've stood firm on our membership principles and co-branding rules; we and our members are released from any potential damages; and NationsBank, a long-standing member, owns and controls the program in a manner that is entirely consistent with our rules. This is a win for MasterCard no matter how you look at it.

Q2 What happens to this program if Visa wins/loses its present appeal? What happens to MasterCard?

This co-branded program is structured in a manner that is entirely consistent with MasterCard rules. Of course, the continuation of the program is a matter between NationsBank and Dean Witter.

If Visa loses, MountainWest Financial and Hurley State Bank will be admitted to membership but MasterCard and its members will have avoided any liability or potential damages.

Q3 Does this settlement mean that your prospects in this case were not good?

We think that our prospects were excellent and we remain entirely convinced of the position we took in this case.

However, both MasterCard and Dean Witter recognize that any litigation carries with it an element of risk. So when NationsBank and Dean Witter came to us with this program, we both saw an opportunity to benefit without abandoning our respective positions in this case. On our part, this deal does not change our rules in any respect regarding co-branding or any other matter nor will we have abandoned any of our membership principles.

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Q4. Doesn't this deal tip the scales against Visa in their litigation?

No, we do not believe that it will have any impact on Visa's appeal and, furthermore, this agreement in no way indicates any culpability on our part or on the industry's part.

Q5. How do you feel about the prospects for Visa's litigation in light of this deal?

The outcome of lawsuits is often difficult to predict. In any event, it would not be appropriate for us to speculate on the outcome of pending litigation. We can say, however, that we do not believe this settlement will have any impact on the outcome of Visa's present appeal.

Q6. Haven't you just let a significant competitor into your system?

No. NationsBank is the member and "owns and controls" the program as defined by our rules. Dean Witter is not a member and is not "in" the system but rather is a co-branding partner, like hundreds of others, operating within the limits imposed by our rules.

However, if Visa does not prevail in its present appeal, Dean Witter's affiliates will be admitted into MasterCard and in that sense we will have put our "eggs in Visa's basket" so to speak. Nonetheless, the advantages for MasterCard and our membership are that we are released from potential damages regardless of the outcome of the Visa appeal, and if Visa wins, our decision to deny MountainWest's application for membership stands.

Q7. Can't American Express do the same thing?

Perhaps. But this would depend on the structure of the program, whether or not it complied with our rules and whether it was "owned and controlled" by a MasterCard member. However, neither the name "American Express" nor competitive program names owned by American Express could appear on the card.

Q8 Can't Dean Witter simply use the profits from this deal and invest them in Discover?

There is nothing we can do to prevent independent companies from investing their profits as they see fit. Keep in mind, however, that the reverse is true as well - the profits generated by NationsBank and the assessments accruing to MasterCard can be applied to furthering the competitive position of MasterCard against Discover.

Q9 Can Discover continue to "disparage" our system in its advertising?

Our agreement in no way precludes MasterCard from challenging Dean Witter in court regarding its advertising should it disparage our products.

Q10 Isn't this another example of MasterCard getting closer to the traditional banks in order to gain share?

MasterCard has never made any special overtures to non-traditional banks. We treat all segments of our membership equally. It's important to note that our relationship here is with NationsBank - a traditional bank and a long-standing member of MasterCard.

Q11 Isn't this another "AT&T"? In other words, hasn't a substantial non-member used a member as a "Trojan Horse" in order to ride freely on the system that your long-standing members have created?

Co-branding enables all parties to benefit. For example, airline co-branded programs benefit airline companies at the same time that they benefit our member issuers. On their part, NationsBank has struck a deal that we can assume has significant financial benefits to them and, thereby, is getting value from their investment in our franchise. Our co-branding platform was designed so that members can build co-branded products that suit their investment targets and market objectives. That is what NationsBank has done here.

Q12 But in the other programs you have described, the co-branding partner does not have a significant product that is directly competitive with MasterCard. Isn't this program different in this respect?

Yes, but then every program is unique. Our job, however, is to ensure that our members' programs are consistent with our rules and principles. As long as they are, it is up to our members to set their individual business objectives and what partners, if any, they require to achieve them.

Q13 Does this deal involve a second account number? What is the possibility that Discover can tie into your system using the second account number?

No, this does not involve a second account number. Furthermore, we have no intention of allowing Discover or any other general purpose card competitor to put their account number on a MasterCard card.

Q14 Who owns the receivables?

The exact terms of the agreement are between NationsBank and Dean Witter. We can say, however, that NationsBank will own and control the program in a manner consistent with our rules and will bear financial risk in the program.

Q15 Describe the rules that govern co-branded programs? What constitutes "control"?

Our co-branding rules say, in essence, that the MasterCard member has to own and control the program. To evaluate "ownership and control" we look at a number of factors such as pricing, credit policy, the member's exposure to financial risk, and their involvement in overall management decisions, among other factors. These rules were established in 1991 as part of a more comprehensive review of all of MasterCard's rules and by-laws.

No single factor among the items listed above determines whether or not a member "owns or controls" a program. Rather, all of the items are considered together as part of an overall evaluation to determine whether the MasterCard member truly owns and controls the program in a manner that is consistent with our rules.

Q16 Isn't this program really just a "rent-a-bin" arrangement?

Absolutely not! The term "rent-a-bin" implies that the member does not "own and control" the program. That is not the case here.

Q17 Is this a co-branded program?

Yes, this is a co-branded program under our rules.

Q18 Won't this fuel the drive at Visa to end duality on all cards?

Visa might want to end duality but we believe that members of both associations would disadvantage themselves by giving up their right to offer both brands to their customers.

Q19 Could Visa have approved this program?

We are unaware of any Visa rule that would have prohibited this program.

Q20 Do you anticipate an adverse reaction for the membership?

We believe the members will react positively to this settlement because:

- (a.) MasterCard members are all released from any damages.
- (b.) MasterCard has stood firm on its membership principles.
- (c.) We've maintained the "status quo" in terms of the membership of Dean Witter affiliates. Membership is dependent upon the outcome of Visa's appeal before the 10th Circuit.